

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**DAVID LEE POWELL,**

**Plaintiff,**

**v.**

**RICKY OWENS, et al.,**

**Defendants.**

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**Civil Action No. 2:05-cv-00544-MHT-DRB**

**DEFENDANTS' ANSWER**

COME NOW Coosa County Sheriff Ricky Owens, Wendy Roberson, Al Bradley, Kay Taylor, Dewayne Harris, and Steve Hay, Defendants in the above-styled cause, and answer the Plaintiff's Complaint as follows:

**Answer**

The Defendants in this action deny each and every allegation made by the Plaintiff, David Lee Powell, and demand strict proof thereof. The Defendants deny that they acted, or caused anyone to act, in such a manner so as to deprive the Plaintiff of his constitutional rights.

**Affirmative Defenses**

1. The Plaintiff's Complaint, separately and severally, fails to state a claim upon which relief may be granted.
2. The Defendants in this action, in their individual capacities, are entitled to qualified immunity from the Plaintiff's claims.
3. The Defendants in this matter, in their official capacities, are not liable under § 1983 because they are not "persons" under 42 U.S.C.A. § 1983.

4. The Plaintiff's claims are barred by the absence of physical injury as required by the Prison Litigation Reform Act.

5. Defendants plead Eleventh Amendment immunity.

6. Defendants plead the Heck v. Humphrey defense.

7. Failure to read Plaintiff the Miranda warning cannot support a claim for a violation of Plaintiff's constitutional rights.

8. Plaintiff has not alleged that he was interrogated as would give rise to the need for Miranda warnings.

9. Plaintiff fails to allege any affirmative causal link between the alleged acts of Defendants and any alleged constitutional deprivation or Defendants' direct participation in any alleged constitutional violation.

10. Defendants are not liable based upon *respondeat superior* theories of liability.

11. Defendants were not deliberately indifferent in any respect.

12. The Plaintiff cannot prove a violation of his rights under the United States Constitution.

Respectfully submitted this the 15th day of August, 2005.

**s/Amanda Allred**

KELLY GALLOPS DAVIDSON. Bar Number: No. DAV123

AMANDA ALLRED Bar No. ALL079

Attorneys for Defendants

WEBB & ELEY, P.C.

7475 Halcyon Pointe Drive

P.O. Box 240909

Montgomery, Alabama 36124

Telephone: (334) 262-1850

Fax: (334) 262-1889

E-mail: [aallred@webbeley.com](mailto:aallred@webbeley.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 15th day of August, 2005, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that I have mailed a true and correct copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

David Lee Powell  
ASI # 241477  
Kilby Correctional Facility  
P.O. Box 150  
Mt. Meigs, AL 36057

**s/Amanda Allred**  
OF COUNSEL